

Hungary under Orban's rule: the constitutional consolidation of power

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Fidesz led by Prime Minister Viktor Orban in its coalition with the Christian Democrats has a constitutional majority in Hungarian parliament. Since it took over power in spring 2010, it has been implementing a programme aimed at the reconstruction of the state institutions. The political reforms reached their peak as the new constitution was adopted. The constitution took effect on 1 January 2012. The powers of the Constitutional Court have been seriously restricted, and many aspects of the state's operation will be regulated by constitutional laws to be adopted according to the same procedures as amendments to the constitution. The most important – from the point of view of the political system – and the most controversial constitutional laws were adopted at the end of 2011, shortly before the new constitution came into force.

After the media act, which enables the imposition of high financial penalties on the media, and the new constitution, which has reduced the role of the Constitutional Court, the next step Fidesz is taking to consolidate its power in the state is a reshuffle in the management of the central bank. In turn, amendments recently made to the electoral regulations will help Fidesz retain power also when public support for it drops significantly. The ruling political right has proclaimed the birth of a new Hungary, with a strong executive power, which will be able to lead the country out of the crisis. However, these moves have been accompanied by intensifying protests from the opposition and strong criticism from abroad, since the actions taken by Orban's team are seen as attempts to dismantle the tripartite division of power and a threat to the sustainability of democracy in Hungary.

The new electoral regulations

Parliament adopted a new electoral law on 23 December. The law has not changed fundamentally the mixed (majority and proportional) system but it has introduced a number of modifications beneficial for the strongest party. The number of MPs in the unicameral National Assembly has been reduced from 386 to 199. The number of single-member constituencies has been reduced to 106 (and these were determined to serve the interests of the governing team), but their share in the distribution of the seats has increased from 46

to 53%. There will be no runoffs in single-member constituencies. The voter will still have two votes: one for the candidate in a single-member constituency (the majority system), and one for the national party list (the proportional system), and not for lists in constituencies as before. The 'unused' votes for the candidates from single-member constituencies who have not won the parliamentary seat will be added to the national lists. The 'compensation element' has also been changed to the benefit of the winner: not only the votes cast for the unsuccessful candidates from single-member constituencies but also the 'unused' votes cast for the winner will be added (for example, when the winner receives support of 40,000 votes, and the second candidate receives 20,000, the 19,999 'unused' votes cast for the winner will be transferred to the national lists). Owing to these solutions, a party which receives support at 30–35% of the votes could gain as much as 2/3 of the seats (in the recent elections the result of 52% of votes cast for Fidesz gave it 68% of the seats).

The law has also made more precise the regulations of the new constitution granting the voting rights to Hungarian citizens living abroad. However, they will only vote for the party lists. Thus, the project of creating additional single-member constituencies for citizens voting abroad, which had been planned, has been abandoned.

Changes in the central bank

The new law on the National Bank of Hungary (NBH) introduces the position of a third vice-president, who is to be nominated by the prime minister, not by the head of the NBH as previously. The number of the members of the Monetary Council, whose competences have been enhanced, will increase from seven to nine. They will still be elected by parliament (with the exception of the head and the vice-presidents of the NBH, who will also be members of the Council). Attached to this law is a declaration that the government will not influence the NBH and its management. The law also reinstates the provision that the central bank's currency reserves cannot be used to repay debts of public administration units.

The new central bank law has not changed the rules of the bank's operation fundamentally. The bank has not been merged with the Hungarian Financial Supervisory Authority (at least so far, since the law does not rule out such a change), which was initially announced and was interpreted as an attempt to get rid of Andras Simor, president of the NBH, who is critical of the government (if the two institutions merged, it would be necessary to appoint a new head). The fact that the changes were introduced so hastily and the continuing dispute between the government and the president of the central bank over interest rates (the government is criticising the bank's restrictive monetary policy) gave rise to concerns about the government's intentions to informally influence the central bank's decisions. The new regulations have been criticised by the European Central Bank. The constitutional law on financial stability, which establishes tax regulation more firmly (for example, the flat rate tax, which has been in place in Hungary for a year), and their possible amendment will require a two-thirds majority of the votes.

Reactions from abroad

The changes in the rules of operation of institutions which had so far been independent from the prime minister, such as the Constitutional Court, the central bank or the judiciary, have been widely criticised abroad. The harshest criticism has been heard from US diplomacy. The US secretary of state, Hillary Clinton, in her appeal for the 'rules of democracy' to be observed criticised for example the reduction of the independence of the judiciary, the law on the status of churches (beneficial for those which have been well established in Hungary for years), restricting the independence of the media and depriving the left-inclined radio, Klubradio, of wavelength.

The European Commission has presented reservations regarding the judiciary reform, the law on central bank and financial stabilisation of the country. José Manuel Barroso unsuccessfully appealed to Prime Minister Viktor Orban for the withdrawal of the changes concerning the central bank and the law on the national financial stability. He found these contrary to EU *acquis* and suggested that their adoption could make it difficult for Hungary to be granted a new credit line by the International Monetary Fund and the EU. If the European Commission deems these laws noncompliant with EU law, the infringement of EU law by member states procedure will be launched. Given the present situation, it is highly unlikely that talks with the IMF and the EU will bring the effects expected by the Hungarian government.

The weakness of the opposition

Although almost half of respondents do not support any of the parties, Fidesz is still the unquestioned leader in public opinion polls. The Democratic Coalition, led by the former prime minister, Ferenc Gyurcsany, split from the Socialist MSZP, the second largest party in parliament. The far-right Jobbik in public opinion polls receives a support level close to 20%, which however seems to be the upper limit of popularity for this radical party. The party which is engaged most actively in opposing the government is the smallest party in parliament, Politics Can Be Different (LMP), but it fails to receive the support necessary for it to become the guiding force of the protest. A demonstration against Orban's government, the largest so far, with approximately 30,000 protesters, took place on 2 January. Its participants, along with opposition parties, included representatives of the trade unions belonging to the Hungarian Solidarity Movement, who draw on the symbols and tradition of the Polish trade union movement. Social movements which are not linked to any political parties and are based for example on social networking websites are playing an increasing role in the protest movement. However, they still are not a real political force which could challenge the domination of Fidesz. Although the media law has been adopted in a less restrictive version, the ruling party has gained more possibilities to influence the public with the use of the public media and disciplining the opposition media.

Possible developments

The new electoral regulations are beneficial for Fidesz, and the ruling team will be able to hold early elections at a time it deems favourable and thus prevent the opposition forces from gaining strength. Furthermore, Fidesz will broaden its electorate by gaining a significant part of the votes from ethnic Hungarians living in neighbouring countries, who – having been granted Hungarian citizenship according to the simplified procedure – are likely to be willing to take part (for the first time) in Hungarian elections. The electoral regulations which are more beneficial for the winner and tens of thousands of votes cast abroad may cause Fidesz to be able to form the government even if it loses a significant proportion of its support. Even if Fidesz lost power, it would still retain control of many state institutions (the Media Council, the Constitutional Court, the National Judicial Office, the Budget Council and the National Bank of Hungary), whose managements include or will shortly include individuals linked to Orban's team, and their tenures are long. Many institutional solutions are determined by constitutional laws. Any cabinet in which Fidesz does not participate and which does not have a constitutional majority in parliament will have very limited room for manoeuvre.

The government led by Prime Minister Orban managed to push through all the major changes in the political system by the end of 2011 and seems unlikely to cancel the laws adopted by constitutional majority in Hungarian parliament under external pressure. However, some activities aimed at regaining confidence abroad may be expected. The government will make attempts to prove that the changes introduced do not pose any threat to democracy, do not breach the rules of the tripartite division of powers and do not put the financial stability of the state at risk. Hungary's need to regain the confidence of the markets is very strong due to the deteriorating economic situation, the threat of recession, the devaluation of the forint and the interest rate on Hungarian bonds, which is highly detrimental for the government. The rate of return of Hungarian 10-year bonds on the secondary market has already exceeded 10%, reaching the highest level since 2009, which is significantly increasing the costs of financing Hungary's high public debt (approximately 80% of GDP in 2011). Nevertheless, the risk that Hungary could become insolvent is quite low at the moment; Hungary must redeem its bonds worth 4.5 billion euros, which is a relatively low sum. If however the economic situation in the eurozone deteriorates, a loan from the IMF and the EU may become necessary to maintain financial stability in Hungary.

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